



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,214	01/28/2004	Ray Bojarski	00167-524001 / 02-31-0483	7657
7590 05/17/2007				
Joel R. Petrow, Esq. Chief Patent Counsel Smith & Nephew, Inc. 1450 Brooks Road Memphis, TN 38116			EXAMINER KOTINI, PAVITRA	
			ART UNIT 3731	PAPER NUMBER
			MAIL DATE 05/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/765,214	Applicant(s) BOJARSKI ET AL.	
	Examiner Pavitra Kotini	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to Applicant's Amendment received on 2/15/07.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-19, 22-26, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Crittenden (US-5290247).

Crittenden discloses a device, comprising:

Regarding **claim 1**, a body (104, 142, or 154) defining a tapered hole (109) for guiding a member into a tube (fig.8A-8B) and defining a slot (130) communicating with the hole, is capable of separating the body and the member (col.8, lines 12-15).

Regarding **claim 2**, the body defines a bore (156) communicating with the tapered hole.

Regarding **claims 3 and 12**, the bore has a constant diameter (fig. 4B).

Regarding **claims 4 and 13**, the bore is capable of being tapered (col.6, lines 40-44).

Regarding **claims 5 and 14**, a width of the bore is greater than a width of a narrowest portion of the tapered hole (fig. 4B, 156).

Regarding **claims 6 and 15**, the slot extends from the tapered hole and the bore to an external surface of the body (col.8, lines 12-15).

Regarding **claims 7 and 18**, it is old and well known that the member is capable of being a suture thread.

Regarding **claims 8 and 19**, a handle extending from the body (catheter 51 or 133).

Regarding **claim 9**, a tube (152); and a body (104, 142, or 154) defining a tapered hole (109) for guiding a member into the tube (fig.8A-8B), and defining a slot (130) communicating with the hole, is capable of separating the body and the member.

Regarding **claim 10**, the body is configured for connection to an end of the tube (figs. 4B).

Regarding **claim 11**, the body defines a bore (156) for receiving the tube (102 or 152), the bore communicating with the tapered hole (fig.4B).

Regarding **claim 16**, the tube (102 or 152) defines an opening (164) for receiving the member (fig. 4B).

Regarding **claim 17**, a width of the opening is substantially the same as a width of the narrowest portion of the tapered hole (fig. 4B).

Regarding **claim 22**, guide means (104, 142, or 154) for guiding a member into a tube (figs. 8A-8B), the guide means including means (130) for separating the guide means and the member.

Regarding **claims 23 and 25**, the body includes a first terminal end (106) and includes a second terminal end portion (109), the first terminal end defining an opening

and the second terminal end portion defining the tapered hole (fig. 9A), and wherein the slot extends from the first terminal end to the second terminal end portion (col.8, lines 12-15).

Regarding **claims 24 and 26**, the body is configured such that the tapered hole guides the member when advanced into the tube from a larger opening of the tapered hole to a smaller opening of the tapered hole (fig. 8A-8B).

Regarding **claim 29**, a body having a first terminal end (106) and having a second terminal end portion (109), the first terminal end defining an opening (122) and the second terminal end portion defining a tapered hole for guiding a member into a tube (figs. 8A-8B), and defining a slot (130) extending from the first terminal end to the second terminal end portion that communicates with the hole and is capable of separating the body and the member.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 21, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crittenden (US-5290247) in view of Weber (US-4385575).

Crittenden discloses the steps of coupling a body to an end of a tube (fig. 9A), the body defining a tapered hole and a slot (fig. 9A); guiding a member into the tube through the tapered hole (fig. 8A-8B); receiving the end of the tube in a bore in the body, the bore communicating with the tapered hole (fig. 4B); decoupling the body from the end of the tube (body is initially connected inserted into the tube, so it is certainly capable of being disconnected from the tube (col.6, lines 40-44)).

Crittenden does not specifically disclose the steps of separating the body and the member by passing the member through the slot; wherein separating the body and the member by passing the member through the slot comprises separating the body and the member by passing the member through the slot while the member remains in the tube.

However, Weber teaches separating a member from a body through a slot (figs. 2-4). Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the steps of separating the body from the member according to the teaching of Weber. Such a method of separating a member through a slot is old and well known in the art, but nonetheless, it provides the advantage of another possible method of separating two components easily.

Response to Arguments

1 - 29

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments, filed 2/15/07, with respect to the rejection(s) of claim(s) 20 and 21 under 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Crittenden (US-5290247) in view of Weber (US-4385575).

Regarding independent claims 1, 9, 22, and 29 and all the dependent claims which are drawn to a device, the statements of intended use: "for guiding a member into a tube" and "for separating the body and the member while the member remains in the tube" have been carefully considered but deemed not to impose any structural limitations to these apparatus claims.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pavitra Kotini whose telephone number is 571-272-0624. The examiner can normally be reached on M-F 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

P.Kotini
AU 3731


(JACKIE) TAN-UYEN HO
PRIMARY EXAMINER
5/14/07